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46321 7590 06/05/2008 CAREY, RODRIGUEZ, GREENBERG & PAUL, LLP STEVEN M. GREENBERG 950 PENINSULA CORPORATE CIRCLE SUITE 3020 BOCA RATON, FL 33487			EXAMINER DIVECHIA, KAMAL B	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/734,348
Filing Date: December 12, 2003
Appellant(s): BANATWALA ET AL.

Steven M. Greenberg
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/24/08 appealing from the Office action mailed 10/19/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Moser et al., US 2004/0107249 A1, published Jun. 3, 2004, and filed Dec. 2, 2002.

Estrada, US 6,996,780 B2, issued Feb. 7, 2006, and filed Dec. 29, 2000.

Banatwala, co-pending application 10/744,302 filed Dec. 22, 2003.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-3, 5-10, 12-17 and 19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/744,302 (hereinafter '302) in view of Estrada (US 6,996,780 B2).

Claims 1-15 of co-pending application '302 explicitly and/or inherently discloses each and every limitation of claims 1-3, 5-7.

For example: claims 1, 3, 4 and 7 of '302 discloses a named collaborative space with roles, membership, resources such as business components, messaging tools and creating instances of the named collaborative spaces, similar to claim 1-3 of present application (except for provisionable named collaborative space).

However, '302 does not disclose the process of providing provisionable named collaborative space (i.e. to base a named collaborative space on a previous named space in a manner which may require little or no customization).

Estrada explicitly discloses the process of creating place type from which new places are created in collaboration space (see claims 1-10).

Therefore it would have been obvious to a person of ordinary skilled in the art at the time the invention was made to modify '302 in view of Estrada in order to provide a provisionable named collaborative space.

One of ordinary skilled in the art would have been motivated because it would have provided an environment where web applications are instantly created, instantly archived, team and project oriented, easy to use, created, accessed and administered via the web, reusable, and extensible (Estrada, col. 3 L37-50).

This is a provisional obviousness-type double patenting rejection.

Claims 1-3, 5-10, 12-17 and 19 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,996,780 B2 in view of Moser et al. (hereinafter Moser, US 2004/0107249 A1).

'780 Patent discloses a collaborative computing method for establishment of a named collaborative space comprising the process of providing a templatable and provisionable named collaborative space to serve a basis for establishment instances of named collaborative spaces, similar to an invention disclosed in the present application.

Moser, on the other hand, explicitly discloses each and every limitations of the claimed invention, as evidenced by the detailed mappings presented below (See 35 U.S.C. 102(c) rejection presented below).

Therefore, the combination of '780 patent and Moser clearly results in an invention disclosed in the present application.

Claims 1-3, 5-10, 12-17 and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Moser et al. (hereinafter Moser, US 2004/0107249 A1).

As per claim 1, Moser explicitly discloses a collaborative computing method for the establishment of a named collaborative space (pg. 1 [0004-0008]), the method comprising:

providing a templatable and provisionable (customizable) named collaborative space to server as a basis for establishment instances of named collaborative spaces, the templatable and provisionable named collaborative space defining work place within the collaborative computing environment and configured to manage a plurality of business process components disposed within an instance of the named space in a one-to-many relationship (pg. 2 [0017], [0021], pg. 3 [0030], [0031], pg. 4 [0035], [0040], [0042], pg. 5 [0053], pg. 6 [0054], fig. 1-6: one-to-many relationship includes single space area created using a template provided to server and plurality of objects such as membership object, business objects, etc.);

provisioning an instance of the templatable and provisionable named collaborative space (fig. 3-6, pg. 5 [0053], pg. 6 [0054]: deploying a collaboration area using a template);

identifying a membership set for the named collaborative space, the membership set including one or more members (fig. 3 item #106, 110, pg. 4 [0040-0043], fig. 4);

providing a plurality of business component instances for management within the provisioned instance of the named collaborative space (fig. 4, pg. 2 [0021], pg. 3 [0027]: providing tools such as news, search engines, schedulers, etc.); and,

managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components (such as stock tickers, search engines, discussion forums, meeting schedulers, news headlines, etc.) within the provisioned instance of

the named collaborative space (fig. 1, fig. 4, pg. 3 [0027-0029], pg. 4 [0039-0040]: instantiates a business process component such as discussion forum, meeting scheduler and news headlines when instantiating a collaboration area or room, fig. 3, fig. 6: example of a collaboration area created using a template).

As per claim 2, Moser discloses the process wherein the business process component instances are business instance portlets (fig. 4, pg. 2 [0021], pg. 3 [0027]).

As per claim 3, Moser discloses the process wherein the members of membership set for the collaborative space are assigned a role, the role defining access and permission privileges to the at least one business process (pg. 2 [0023-0024], pg. 3 [0031-0032], pg. 5 [0049], pg. 6 [0054], fig. 3-6).

As per claim 5, Moser discloses the process wherein provisioned instance of the templatable and provisionable named collaborative space is provisionable from other provisioned instances of the named collaborative spaces (pg. 3 [0026], pg. 4 [0039]).

As per claim 6, Moser discloses the process of transferring information between the business component instance and the named collaborative space, the information being transferred using an enterprise java bean (pg. 2 [0021-0023], pg. 6 [0059]).

As per claim 7, Moser discloses the process further including assigning a policy to the named space (pg. 3 [0031]).

As per claims 8-10, 12-17 and 19, they do not teach or further define over the limitations in claims 1-3, 5-7. Therefore claims 8-10, 12-17 and 19 are rejected for the same reasons as set forth in claims 1-3, 5-7.

(10) Response to Argument

The Examiner summarizes various arguments raised by the appellant and addresses replies individually.

In the appeal brief, appellant argues in substance that:

a. Provisional Rejections of claims 1-3, 5-10, 12-17 under the judicially created doctrine of obviousness type of Double Patenting (Brief, pg. 5).

Appellant has acknowledged the obvious type double patenting rejection.

b. Moser do not teach managing a common lifecycle for each of the provisioned instance of the NCS and business process components within the provisioned instance of the named collaborative space (Brief, pg. 6-7).

In response to argument [b], Examiner respectfully disagrees.

Independent claim 1 recites:

A collaborative computing method for the establishment of a named collaborative space, the method comprising:
providing a templatable and provisionable named collaborative space to serve as a basis for establishing instances of named collaborative spaces, the templatable and provisionable named collaborative space defining a work place within the collaborative computing environment and configured to manage a **plurality of business process components disposed within an instance of the named space in a one-to-many relationship**;
provisioning an instance of the templatable and provisionable named collaborative space;
identifying a membership set for the named collaborative space, the membership set including one or more members;
providing a plurality of business process component instances for management within the provisioned instance of the named collaborative space; and,
managing a common lifecycle for each of the provisioned instance of the named collaborative space and the business process components within the provisioned instance of the named collaborative space.

Initially, it should be noted that the limitation “managing a common lifecycle...” was introduced in the claims in **response filed 2/09/06 and amended on 2/15/07.**

In an office action dated April 30, 2007, Examiner rejected claims 1-19 under 35 U.S.C. 112, second paragraph rejections because of the unclear scope of the limitation “managing a common lifecycle...” in the claims.

In response filed 7/30/07, appellant explicitly pointed out and directed the examiner to paragraph [0020] of the specification in which the term lifecycle is clearly explained as per appellant (See remarks, pg. 8 [C]).

The directed portion of the appellant specification is reproduced herein:

[0019] Membership refers to the people within the named collaborative space, i.e. the users...Business process 16 is implemented as one or more business component instances within named space 12. Business component instances provide the tools and resources used by membership 14. Examples of tools provided by business component instances include stock tickers, search engines, discussion forums, document libraries, meeting schedulers, etc.

[0020] Business component instances provided as part of business process 16 are managed by a specific NCS 10 instance. Although not required, business component instances can share the same life cycle as its corresponding NCS instance. In other words when an NCS 10 is instantiated, a business component instance is also instantiated. When an NCS instance is removed, the business component instance is also removed. The underlying NCS communicates with business components via a predefined interface. For example, such an interface may be an enterprise java bean ("EJB") or other type of server object that can be called such as remotable application program interfaces.

In other words, as per appellant's specification, the limitation “managing common lifecycle...” **means** when an NCS is instantiated, i.e. deployed and/or implemented, a business component instance is also instantiated, i.e. deployed and/or implemented. When an NCS is removed, the business component is also removed, etc.

The business process components, in light of appellant's specification, includes tools such as stock tickers, search engines, discussion forums, document libraries, meeting schedulers, etc. (applicant specification, pg. 8 [0019]).

At [0040], Moser teaches “Each template is associated with a number of preset underlying roles, work sets, views, and processes for a general application...” (Emphasis added).

At [0053], Moser teaches the process of creating a collaboration area using the template.

The views as referred in [0040] include news headlines, message view, calendar view, etc. (pg. 3 [0026-0028]).

At [0054] and fig. 6, Moser shows a display of a collaboration area that has been initially created from a simple template.

Moser teaches instantiating a collaboration area, i.e. NCS, **wherein the instantiation includes instantiating business process components** (referred as views according to Moser) such as news tickers, schedulers, discussion forums and/or simply views (pg. 3 [0026-0028], pg. 4 [0039-0040], pg. 6 [0054]).

In other words, when an NCS in Moser is deployed, instantiated and/or implemented, the following business components are also deployed, instantiated and/or implemented: discussion forums, news headlines, schedulers and/or simply views, e.g. see fig. 6 which is an instantiated collaborative space with plurality of views.

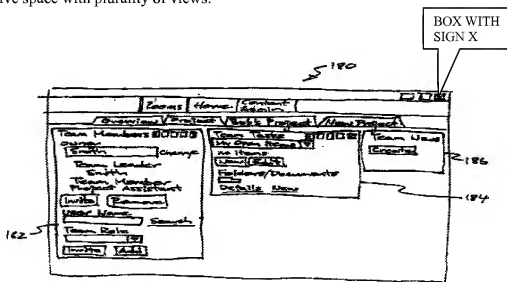


Fig. 6

Furthermore, **the functionality associated with the box with sign X** (hereinafter X) on the top right hand corner of window 180 is well known in the art. That is, it closes and/or removes the window, in this case, it closes window 180.

When X is selected and/or clicked, the window 180 will be closed and/or removed, as well as the windows within the window 180, **thus** managing the common lifecycle for each provisioned instance of a NCS and the business components within the provisioned instance of the NCS, at least in light of appellant's specification as set forth above.

i. In the case of claim 1, Examiner has ignored the words “common lifecycle” and “each” and has failed to point out with particularity where in Moser such words can be found (Brief, pg. 9).

In response to appellant's argument, Examiner disagrees.

The fact that the examiner raised the 35 U.S.C. 112, second paragraph rejection based on the usage and/or the recitation “managing common lifecycle...” is evidenced to show that not even a single word has been ignored.

Furthermore, it appears that appellant is disregarding and/or avoiding its own supporting disclosure and its own showing of the support by focusing on the plain claim language and looking for the **similar terminologies** in the prior art for showing non-anticipation.

It should be noted that during patent examination, the pending claims must be “given >their< broadest reasonable interpretation consistent with the specification.” > In re Hyatt, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed.

Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As such, Examiner has clearly shown the broadest reasonable interpretation consistent with the specification as filed in response to argument [b].

Furthermore, the term “each” in the claim fails to set forth a boundary, i.e. the number of created instances. In Moser, one or more instances can be created as set forth above, i.e. with the similar process as used to create instance such as in figure 6. As such, every created instance will have views and the box with sign X, **thus** managing common lifecycle for each of the provisioned instance of the NCS.

c. The plain claim language of claim 15 requires that the business process component instances be accessible within the provisioned instance of the templatable and provisionable named collaborative space in a one-to-many relationship (Brief, pg. 10).

In response to argument [c], Examiner respectfully disagrees.

Independent claim 15 recites:

A system providing a named collaborative space in a collaborative computing environment, the system comprising a computer having:
a database, the database storing:
a membership set for a templatable and provisionable named collaborative space serving as a basis for the establishment of provisioned instances of the templatable and provisionable named collaborative spaces, the membership set identifying one or more members; and
data corresponding to a provisioned instance of the templatable and provisionable named collaborative space defining a place within the collaborative computing environment; and

a central processing unit functioning to provide plurality of business process component instances accessible within the provisioned instance of the templatable and provisionable named collaborative space in a one-to-many relationship, the central processing unit in operative communication with the database.

In support, Appellant specification discloses (see page 9 [0022-0025] and fig. 2):

[0019] Membership refers to the people within the named collaborative space, i.e. the users...Business process 16 is implemented as one or more business component instances within named space 12. **Business component instances provide the tools and resources used by membership 14. Examples of tools provided by business component instances include stock tickers, search engines, discussion forums, document libraries, meeting schedulers, etc.**

[0022] The relationship between NCS 10 and other objects within a named collaborative space instance is described with respect to Fig. 2. As shown in Fig. 2, NCS object 17 has a 1 to many relationships with member objects 18, business component instances 20, metadata objects 22 and community role objects 24. Community role objects 24 likewise have a 1 to many relationships with community role mapping objects 26. NCS object 17 includes as elements a global unique identifier (GUID), a name, a type, a boolean indicator as to whether the instantiation is a template, a portal place ID identifying the named space 12 for the NCS as well as other information defining size, creation dates, times, modification tracking, etc.

[0023] Member object 18 identifies and relates members to a particular named collaborative space 10 as well as a community role. Community roles are discussed below in detail.

[0024] Business component instance object 20 includes as elements a GUID, a reference back to the GUID for the NCS instance, the name of the business component, the type of business component, an ID for the business component, a portlet ID, if applicable, as well as an ID indicating which portal page the business component is associated with, i.e. the named space.

[0025] Metadata object 22 provides the ability to add and define additional properties of an NCS and includes as elements a name, a reference back to the GUID for the NCS...

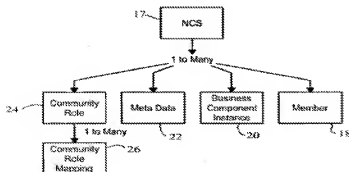


FIG. 2

In other words, the “one-to-many relationship” is simply an environment where a single collaborative space comprises a plurality of objects such as member object that identifies and relates members to a particular named collaborative space, business object that provides business instances and metadata object that provides the ability to add and define additional properties of an NCS.

Moser teaches instantiating a NCS, i.e. a collaboration area from a simple template, e.g. pg. 6 [0054] and fig. 6, reproduced herein.

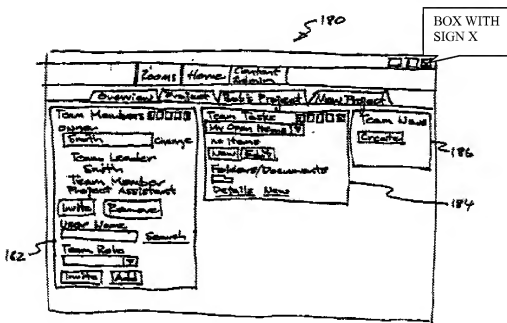


Fig. 6

Clearly, the provisioned instance, i.e. Window #180 includes member object, e.g. item #182, and plurality of views objects within a single instance, i.e. item #180.

In other words, the business process component instances, i.e. News view, Participant view, etc., are all accessible within the single provisioned instance of the templatable and provisionable named collaborative space in a one-to-many relationship.

Once again, it appears that appellant is disregarding and/or avoiding its own supporting disclosure by focusing on the plain claim language and looking for the similar terminologies in the prior art for showing non-anticipation.

It should be noted that during patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > In *re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As such, Examiner has clearly shown the broadest reasonable interpretation consistent with the specification as filed, set forth above.

ii. Consequently, Examiner provides no further support for...Regrettably, Examiner has chosen to shirk the responsibility...Instead, Examiner has cited nine paragraphs of Moser and six figures without attempting any mapping of the words of the limitations...(Brief, pg. 10).

In response to appellant's allegation, Examiner disagrees.

In the present case, the reference, i.e. Moser, is neither complex nor it shows and/or claims the invention that is other than that claimed by the appellant.

Secondly, it appears that appellant is completely disregarding its own supporting disclosure by relying on the plain claim language and attacking the reference based on the plain claim language.

At last, **Examiner in the office action dated 11/15/06** explicitly showed the teachings incorporated by the recitation "one-to-many relationship", which is reproduced herein.

Applicant specification recites (see page 9 [0022-0025] and fig. 2):

[0019] Membership refers to the people within the named collaborative space, i.e. the users...Business process 16 is implemented as one or more business component instances within named space 12. **Business component instances provide the tools** and resources used by membership 14. **Examples of tools provided by business component instances include stock tickers, search engines, discussion forums, document libraries, meeting schedulers, etc.**

[0022] The relationship between NCS 10 and other objects within a named collaborative space instance is described with respect to Fig. 2. As shown in Fig. 2, NCS object 17 has a 1 to many relationships with member objects 18, business component instances 20, metadata objects 22 and community role objects 24. Community role objects 24 likewise have a 1 to many relationships with community role mapping objects 26. NCS object 17 includes as elements a global unique identifier (GUID), a name, a type, a boolean indicator as to whether the instantiation is a template, a portal place ID identifying the named space 12 for the NCS as well as other information defining size, creation dates, times, modification tracking, etc.

[0023] Member object 18 identifies and relates members to a particular named collaborative space 10 as well as a community role. Community roles are discussed below in detail.

[0024] Business component instance object 20 includes as elements a GUID, a reference back to the GUID for the NCS instance, the name of the business component, the type of

business component, an ID for the business component, a portlet ID, if applicable, as well as an ID indicating which portal page the business component is associated with, i.e. the named space.

[0025] Metadata object 22 provides the ability to add and define additional properties of an NCS and includes as elements a name, a reference back to the GUID for the NCS...

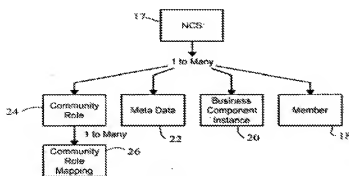


FIG. 2

In other words, the “one-to-many relationship” is simply an environment where a single collaborative space comprises a plurality of objects such as member object that identifies and relates members to a particular named collaborative space, business object that provides business instances and metadata object that provides the ability to add and define additional properties of an NCS.

In view of these responses and examiner’s comments in the rejection, it should have been clear that Moser’s NCS comprising membership object, business components such as views within a single NCS does in fact teach and suggest the “one-to-many relationship”.

Thus, appellant’s allegation that “examiner has cited nine paragraphs without attempting any mapping of the words of the limitations...” is not relevant at this stage of the prosecution.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151

/Jeffrey Pwu/

Supervisory Patent Examiner, Art Unit 2146